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*** CURRENT THROUGH P.L. 109-245, APPROVED 7/26/2006 ***

TITLE 42. THE PUBLIC HEALTH AND WELFARE
CHAPTER 70. MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

42 USCS § 5402

§ 5402. Definitions

As used in this title [42 USCS § 5401 et seq.], the term--

(1) "manufactured home construction" means all activities relating to the assembly and manufacture of a manufactured home including but not limited to those relating to durability, quality, and safety;

(2) "retailer" means any person engaged in the sale, leasing, or distribution of new manufactured home [homes] primarily to persons who in good faith purchase or lease a manufactured home for purposes other than resale;

(3) "defect" includes any defect in the performance, construction, components, or material of a manufactured home that renders the home or any part thereof not fit for the ordinary use for which it was intended;

(4) "distributor" means any person engaged in the sale and distribution of manufactured home [homes] for resale;

(5) "manufacturer" means any person engaged in manufacturing or assembling manufactured home [homes], including any person engaged in importing manufactured home [homes] for resale;

(6) "manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary and complies with the standards established under this title [42 USCS § § 5401 et seq.]; and except that such term shall not include any self-propelled recreational vehicle;

(7) "Federal manufactured home construction and safety standard" means a reasonable standard for the construction, design, and performance of a manufactured home which meets the needs of the public including the need for quality, durability, and safety;

(8) "manufactured home safety" means the performance of a manufactured home in such a manner that the public is protected against any unreasonable risk of the occurrence of accidents due to the design or construction of such manufactured home, or any unreasonable risk of death or injury to the user or the public if such accidents do occur;

(9) "imminent safety hazard" means an imminent and unreasonable risk of death or severe personal injury;

(10) "purchaser" means the first person purchasing a manufactured home in good faith for purposes other than resale;

(11) "Secretary" means the Secretary of Housing and Urban Development;

(12) "State" includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa;

(13) "United States district courts" means the Federal district courts of the United States and the United States courts of the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa;

(14) "administering organization" means the recognized, voluntary, private sector, consensus standards body with specific experience in developing model residential building codes and standards involving all disciplines regarding construction and safety that administers the consensus standards through a development process;

(15) "consensus committee" means the committee established under section 604(a)(3) [42 USCS § 5403(a)(3)];

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(16) "consensus standards development process" means the process by which additions, revisions, and interpretations to the Federal manufactured home construction and safety standards and enforcement regulations shall be developed and recommended to the Secretary by the consensus committee;

(17) "primary inspection agency" means a State agency or private organization that has been approved by the Secretary to act as a design approval primary inspection agency or a production inspection primary inspection agency, or both;

(18) "design approval primary inspection agency" means a State agency or private organization that has been approved by the Secretary to evaluate and either approve or disapprove manufactured home designs and quality control procedures;

(19) "installation standards" means reasonable specifications for the installation of a manufactured home, at the place of occupancy, to ensure proper siting, the joining of all sections of the home, and the installation of stabilization, support, or anchoring systems;

(20) "monitoring" means the process of periodic review of the primary inspection agencies, by the Secretary or by a State agency under an approved State plan pursuant to section 623 [42 USCS § 5422], in accordance with regulations promulgated under this title, giving due consideration to the recommendations of the consensus committee under section 604(b) [42 USCS § 5403(b)], which process shall be for the purpose of ensuring that the primary inspection agencies are discharging their duties under this title; and

(21) "production inspection primary inspection agency" means a State agency or private organization that has been approved by the Secretary to evaluate the ability of manufactured home manufacturing plants to comply with approved quality control procedures and with the Federal manufactured home construction and safety standards promulgated hereunder, including the inspection of homes in the plant.

HISTORY:

(Aug. 22, 1974, P.L. 93-383, Title VI, § 603, 88 Stat. 700; Oct. 8, 1980, P.L. 96-399, Title III, § 308(c)(4), (d), 94 Stat. 1641; Oct. 21, 1998, P.L. 105-276, Title V, Subtitle G, § 599A(a), 112 Stat. 2660; Dec. 27, 2000, P.L. 106-569, Title VI, § 603(a), 114 Stat. 2998.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Explanatory notes:

The bracketed word "homes" has been inserted in this section on the authority of § 339B(c) of Act Aug. 13, 1981, P.L. 97-35, which appears as 12 USCS § 1703 note, which provided that, for purposes of the amendment made by Act Oct. 8, 1980, the terms "mobile home" and "manufactured home" shall be deemed to include "mobile homes" and "manufactured homes".

Effective date of section:

This section took effect upon the expiration of 180 days following enactment, pursuant to § 628 of Act Aug. 22, 1974, P.L. 93-383, which appears as 42 USCS § 5401 note.

Amendments:

1980. Act Oct. 8, 1980, substituted "manufactured home" for "mobile home" wherever appearing (see the Explanatory note to this section); and, in para. (6), substituted ", in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet" for "eight body feet or more in width and is thirty-two body feet or more in length, is", and inserted "except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary and complies with the standards established under this title;".

1998. Act Oct. 21, 1998 (on, and applicable beginning upon, 10/21/98, as provided by § 599A(b) of such Act, which appears as a note to this section), in para. (6), inserted "; and except that such term shall not include any self-propelled recreational vehicle".

2000. Act Dec. 27, 2000 (effective and applicable as provided by § 612 of such Act, which appears as 42 USCS § 5401 note), in para. (2), substituted "retailer" for "dealer", in para. (12), deleted "and" following the concluding semicolon, in para. (13), substituted the concluding semicolon for a period, and added paras. (14)-(21).

Other provisions:

Applicability of Oct. 21, 1998 amendment. Act Oct. 21, 1998, P.L. 105-276, Title V, Subtitle G, § 599A(b), 112 Stat. 2660, provides: "The amendment made by this section [amending para. (6) of this section] is made on, and shall apply beginning upon, the date of the enactment of this Act."

NOTES:

Related Statutes & Rules:

This section is referred to in 12 USCS § 1701j-3, 3802, 15 USCS § 78c.

Research Guide:

Am Jur:

53A Am Jur 2d, Mobile Homes and Trailer Parks § § 5, 27.

Annotations:

Products liability: modern cases determining whether product is defectively designed. 96 ALR3d 22.

Interpretive Notes and Decisions:

Secretary of Housing and Urban Development's (HUD) letter interpreting definition of "manufactured home" found at 42 USCS § 5402(6) simply states what HUD thinks statute means, where Congress apparently limited HUD's authority to promulgate legislative rules to issuance of construction and safety standards under 42 USCS § 5403, and letter is thus merely interpretive rule not subject to requirements of notice and comment rulemaking under 5 USCS § 553. *Association for Regulatory Reform v Pierce* (1987, DC Dist Col) 670 F Supp 1041, *affd* in part and *vacated* in part (1988, App DC) 270 US App DC 318, 849 F2d 649.

Secretary of Housing and Urban Development's (HUD) letter interpretation clarifying definition of "manufactured home" found at 42 USCS § 5402(6) to exclude designs permitting chassis removal is reasonable, based on review of Manufactured Housing Act (42 USCS § § 5401 et seq.), HUD's regulatory scheme, and HUD's prior policy, because purpose of Act was to create "transportable" homes built on "permanent chassis," HUD regulations consistently assume nonremovable transportation system as requirement of manufactured home, and HUD's prior allowance of alternative of "integrating frame function into manufactured home structure" in no case expressly permitted use of discardable transportation frame. *Association for Regulatory Reform v Pierce* (1987, DC Dist Col) 670 F Supp 1041, *affd* in part and *vacated* in part (1988, App DC) 270 US App DC 318, 849 F2d 649.

District Court has federal question jurisdiction under 28 USCS § 1331 to decide issues regarding Secretary of Housing and Urban Development's letter interpreting definition of "manufactured home" found at 42 USCS § 5402(6), because letter is not order relating to federal construction and safety standards which would be reviewable under 42 USCS § 5405(a)(1) by Circuit Court of Appeals. *Association for Regulatory Reform v Pierce* (1987, DC Dist Col) 670 F Supp 1041, *affd* in part and *vacated* in part (1988, App DC) 270 US App DC 318, 849 F2d 649.